

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition #s:	48-027-03-1-5-00385	Parcel #s:	269992810
	48-027-03-1-5-00386		26999287
	48-027-03-1-5-00387		26999282
Petitioners:	Mark and Deborah Alexander		
Respondent:	Pipe Creek Township Assessor (Madison County)		
Assessment Year:	2003		

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioners initiated assessment appeals with the Madison County Property Tax Assessment Board of Appeals (PTABOA) by written documents dated February 5, 2004.
2. The PTABOAs Notification of Final Assessment Determination was mailed to the Petitioners on September 23, 2004.
3. The Petitioners filed appeals to the Board by filing Form 131 petitions with the county assessor on October 19, 2004. The Petitioners elected to have these cases heard in small claims.
4. The Board issued notices of hearing to the parties dated January 14, 2005.
5. The Board consolidated the above referenced petitions and held a single administrative hearing on April 26, 2005, before the duly appointed Administrative Law Judge (ALJ) Debra Eads.
6. Persons present and sworn in at hearing:
 - a) For Petitioner: Mark Alexander, Petitioner
Deborah Alexander, Petitioner
 - b) For Respondent: Priscilla Frazier, Pipe Creek Assessor
Cheryl Heath, County Chief Deputy Assessor
Lloyd Brumback, Deputy County Assessor

Facts

7. The properties are classified as residential (rental properties), as shown on the property record cards (PRCs) for parcel #s 269992810, 26999287 and 26999282. Parcel # 269992810 is located at 1601 South 16th Street in Elwood, Indiana. Parcel # 26999287 is located at 1603 South P Street in Elwood, Indiana. Parcel # 26999282 is located at 1631 South P Street in Elwood, Indiana.

8. The ALJ did not conduct an inspection of the property.

9. Assessed Values of the subject properties as determined by the Madison County PTABOA:

Petition # 48-027-03-1-5-00385	Land: \$1,100	Improvements: \$85,900
Parcel # 269992810 (1601 South 16 th St.)		

Petition # 48-027-03-1-5-00386	Land: \$1,100	Improvements: \$85,900
Parcel # 26999287 (1603 South P St.)		

Petition # 48-027-03-1-5-00387	Land: \$1,600	Improvements: \$125,600
Parcel # 26999282 (1631 South P St.)		

10. Assessed Values requested by Petitioners per the Form 131 petitions:

Petition # 48-027-03-1-5-00385	Land: \$1,000	Improvements: \$69,000
Parcel # 269992810 (1601 South 16 th St.)		

Petition # 48-027-03-1-5-00386	Land: \$1,000	Improvements: \$69,000
Parcel # 26999287 (1603 South P St.)		

Petition # 48-027-03-1-5-00387	Land: \$1,500	Improvements: \$100,500
Parcel # 26999282 (1631 South P St.)		

Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:

- a) The improvements located at 1601 South 16th Street and 1603 South P Street in Elwood are virtually identical structures built within one (1) year of each other. The only difference between the two dwellings is the style of windows. *M. Alexander testimony.*

- b) The Petitioners bought the properties located at 1601 South 16th Street and 1603 South P Street, together with approximately twenty (20) additional lots, for \$150,000 in 1993. The twenty (20) lots might be valued at \$1,500 to \$2,000 each with the buildings being valued at \$55,000 each. *M. Alexander testimony; Petitioner Exhibit 1.*
- c) The property located at 1631 South P Street was appraised on August 25, 2004, with an estimated market value of \$102,000. The property located at 1603 South P Street was appraised on August 25, 2004 with an estimated market value of \$70,000. *M. Alexander testimony & Petitioner Exhibits 2, 5.*
- d) Because the property located at 1601 South 16th Street is identical to that at 1603 South P Street, the appraisal for 1603 South P Street is applicable to both properties. *M. Alexander testimony.*
- e) The Petitioners identified a property comparable to 1601 South 16th Street and 1603 South P Street. That property is located at 711 North 12th Street in Elwood and is listed for sale at \$66,900. *M. Alexander testimony; Petitioner Exhibit 3.*
- f) The Petitioners capitalized the income from 1601 South P Street and arrived at a value of \$57,024.39. The Petitioners also capitalized the income from 1631 South P Street and arrived at a value of \$66,848.78. *M. Alexander testimony; Petitioner Exhibit 4, at 3, 7.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The appraisals submitted by the Petitioners for the subject properties were completed by a reputable appraiser in the Elwood area. *Frazier testimony; Petitioner Exhibits 2, 5.*
- b) Properties on the opposite sides of P have different tax rates, because the city limits run along P street. *Frazier testimony.*
- c) The Madison County PTABOA applied a market adjustment to the each of the subject properties in the amount of a negative twenty percent (20%). That adjustment was fair. *Brumback testimony.*

Record

13. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing labeled BTR # 6179.

c) Exhibits:

Petitioner Exhibit 1: Contract for Sale of Real Estate dated April 15, 1993

Petitioner Exhibit 2: Appraisal for 1603 South P Street dated August 25, 2004

Petitioner Exhibit 3: Multiple Services Listing for 711 N 12th Street

Petitioner Exhibit 4: Folder containing the following items:

1 – DLGF memo dated 11-12-03;

2 – Internet search information for housing in Elwood, IN.

3 – Income capitalization for 1601 S. 16th Street

4 - Value comparison for 1601 S. 16th St if property were outside the city limits of Elwood

5 – Income capitalization for property in Anderson

6 – Debt constant calculation

7 – Income capitalization for 1631 South P Street

8 – DLGF memo dated 11-12-03

9 – Article from the Center for Urban Policy and the Environment dated December 2004

Petitioner Exhibit 5: Appraisal for 1631 South P Street dated August 25, 2004

Respondent: No documents submitted

Board Exhibit A: Form 131 Petitions

Board Exhibit B: Notices of Hearings on Petitions

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:

- a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).

- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioners did not provide sufficient evidence to support their contentions. These conclusions were arrived at because:

- a) The Petitioners provided essentially three (3) pieces of evidence to establish that the subject properties were improperly valued: (1) a 1993 land contract for 1601 South 16th Street and 1603 South P Street, together with additional lots; (2) appraisals for 1603 South P Street and 1631 South P Street dated August 25, 2004; and (3) income capitalization calculations for 1603 South P Street and 1631 South P Street.

Contract Sale

- b) A bona fide sale of the subject property in many instances will provide the best evidence of that property's market value. The 2002 Real Property Assessment Manual (Manual), however, provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on evidence of a property's market value as of a date substantially removed from the relevant valuation date must explain how that evidence relates to the property's value as of January 1, 1999. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating a property's value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment).
- c) Property values assigned in a general reassessment are carried forward from year to year until the next general reassessment. *K.P. Oil, Inc. v. Madison Twp. Assessor*, 818 N.E.2d 1006, 1008 (Ind. Tax Ct. 2004) (citing *Wetzel Enterprises, Inc. v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1259, 1260 n.3 (Ind. Tax Ct 1998)). Therefore, the assessments determined for years between the 2002 reassessment and the next general reassessment, such as the 2003 assessment at issue in this case, still must be based upon a property's value as of January 1, 1999.
- d) The sale at issue in the current case occurred approximately six (6) years prior to the relevant valuation date. The Petitioners did not present any evidence to relate the sale value to the value of the property as of January 1, 1999. The 1993 sale lacks probative value for an additional reason. That sale involved approximately twenty (20) lots that in addition to the 1601 South 16th Street and 1603 South P Street properties. The Petitioners provided only Mark Alexander's conclusory testimony regarding what portion of the sale price was attributable to the additional lots as opposed to the properties at issue in this appeal.

Unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998).

Appraisals

- e) The Petitioners submitted appraisals for the properties located at 1603 South P Street and 1631 South P Street. The appraisals estimated the market values of the respective properties as of August 25, 2004, to be \$70,000 for 1603 South P Street, and \$102,000 for 1631 South P Street. *Id.*
- f) As set forth above, where a party relies upon evidence of a property's market value as of a date substantially removed from the January 1, 1999, valuation date, he must explain how that evidence relates to the property's value as of January 1, 1999. *Long*, 821 N.E.2d at 471-72. The Petitioners failed to explain how the August 25, 2004, appraisals at issue in this case relate to the market values of the subject properties as of January 1, 1999. The appraisals therefore lack probative value.

Income Capitalization

- g) The Petitioners also submitted their calculations of value based upon the capitalization of income for 1601 South 16th Street and 1631 South P Street. *M. Alexander testimony; Petitioner Exhibit 4.*
- h) The Petitioners relied upon income from 2004 in performing their calculations. *Id.* The Petitioners, however, did not explain how their calculations based upon 2004 income related to the market values of the subject properties as of January 1, 1999. Consequently, the values derived from the Petitioners' income capitalization calculations lack probative value.

Conclusions

- 16. The Petitioners did not make a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

Important Notice

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.